

1 BILL NO. S-80-07-28

2 SPECIAL ORDINANCE NO. S-86-80

3
4 AN ORDINANCE approving Civil City
5 Purchase Order No. 4-04362 with
6 Penn Central Corporation and Fort
7 Wayne and Jackson Railroad Company
8 for settlement of a law suit for
9 the City of Fort Wayne as represented
10 by the Board of Works.

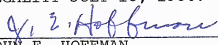
11 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
12 FORT WAYNE, INDIANA:

13 SECTION 1. That Civil City Purchase Order No. 4-04362
14 dated July 16, 1980, between the City of Fort Wayne, by and
15 through the City Purchasing Director and the Board of Public
16 Works and Penn Central Corporation and Fort Wayne and Jackson
17 Railroad Company for settlement of a lawsuit involving the
18 condemnation of property owned by Penn Central Corporation and
19 Fort Wayne and Jackson Railroad Company in order to make way
20 for the construction of the Ewing, Fairfield, Wells Street
21 bridge project at a cost of \$9,400.00 from L R & S Funds, all
22 as more particularly set forth in said Purchase Order, which
23 is on file in the Office of the Department of Purchasing and
24 is by reference incorporated herein and made a part hereof, be
25 and the same is in all things ratified, confirmed and approved.

26 SECTION 2. That this Ordinance shall be in full force
27 and effect from and after its passage and approval by the
28 Mayor.

29 
30 COUNCILMAN

31 APPROVED AS TO FORM AND
32 LEGALITY JULY 18, 1980.

33 
34 JOHN E. HOFFMAN
35 City Attorney

Read the first time in full and on motion by Talarico, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, the _____ day of _____, at _____ o'clock _____ M., E.S.T.

DATE: 7-22-80

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Gia Quinta, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>6</u>	_____	_____	<u>3</u>	_____
BURNS	<u>✓</u>	_____	_____	_____	_____
EISBART	<u>✓</u>	_____	_____	_____	_____
GiaQUINTA	<u>✓</u>	_____	_____	_____	_____
NUCKOLS	_____	_____	_____	<u>✓</u>	_____
SCHMIDT, D.	_____	_____	_____	<u>✓</u>	_____
SCHMIDT, V.	_____	_____	_____	<u>✓</u>	_____
SCHOMBURG	<u>✓</u>	_____	_____	_____	_____
STIER	<u>✓</u>	_____	_____	_____	_____
TALARICO	<u>✓</u>	_____	_____	_____	_____

DATE: 8-12-80

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (~~GENERAL~~) (~~ANNEXATION~~) (~~SPECIAL~~) (APPROPRIATION) ORDINANCE (RESOLUTION) No. S 86-80 on the 12th day of August, 19 80.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

(SEAL) James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of August, 19 80, at the hour of 11:30 o'clock A M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 18th day of August, 19 80, at the hour of 9:30 o'clock A M., E.S.T.

Winfield C. Moses, Jr.
WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-80-07-28

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS REFERRED AN
ORDINANCE approving Civil City Purchase Order No. 4-04362 with Penn
Central Corporation and Fort Wayne and Jackson Railroad
Company for settlement of a law suit for the City of Fort
Wayne as represented by the Board of Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

PAUL M. BURNS, VICE CHAIRMAN

JOHN NUCKOLS

MARK GIAQUINTA

ROY SCHOMBURG

872-80
DATE

CONT. 33 IN
CHARLES W. WESTERMAN, CITY CLERK

*Should
pending report
from Controller
re: possibility
of writing off
as losses
due Co.*

(Cert)

SNOUFFER, HALLER & COLVIN

RICHARD I. SNOUFFER
ROBERT W. HALLER
SHERRILL WM. COLVIN
STEPHEN E. LEWIS
STEPHEN L. WILLIAMS
VINCENT J. HEINY
JOHN O. FEIGNER
PERRY D. SHILTS

ATTORNEYS AT LAW
NOTED
2000 FORT WAYNE BANK BLDG.
FORT WAYNE, INDIANA 46802

TELEPHONE
219-424-2000

☐ R.A.S.

☐ H.R.G.

Date _____

August 6, 1980

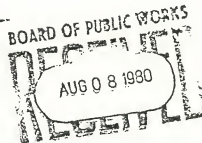
Mrs. Vivian G. Schmidt
President, Fort Wayne City Council
City County Building
One Main Street
Fort Wayne, Indiana 46802

RE: CITY OF FORT WAYNE
VS.
FORT WAYNE & JACKSON RAILROAD COMPANY
AND PENN CENTRAL CORPORATION

Dear Vivian:

I am the Attorney who has processed the condemnation suit against the Fort Wayne & Jackson Railroad Company, Penn Central Corporation and Consolidated Rail Corporation for appropriation of a .24 acre parcel of real estate which is necessary for the Wells Street Bridge project. The previous Armstrong administration had agreed to purchase this real estate for \$9,400.00, but the sale was never consummated because the railroads were not willing to give a Warranty Deed and the previous City Attorneys concluded that the City could not be assured that it would acquire good title to this parcel of real estate. Since the ground was needed for construction, the previous administration as well as the present administration has been renting this real estate on an oral lease for \$100.00 per month. This rent will continue to accrue until the condemnation is completed.

After the condemnation lawsuit was filed, these railroads once again agreed to sell this property to the City for \$9,400.00 via condemnation order which would release any easements and other rights and therefore assure



the City of good title. It is my understanding that there was some discussion at your most recent City Council meeting concerning paying this sum by applying it to back real estate taxes. At one time, during the Penn Central bankruptcy, the City and the County did at times operate under an arrangement whereby back taxes would be credited against any property sold or appropriated by the City or County. However, the matter of the back real estate taxes was compromised some time ago and it is my understanding that these railroads are now current in all of their real estate taxes. While there are three parties to this condemnation lawsuit due to their various interests on the real estate as shown of record, it is my understanding that all of the proceeds from this sale will actually, by agreement amongst the Defendants, go to the Fort Wayne & Jackson Railroad Company. I have checked with the Allen County Treasurer on two separate real estate tax bills for Penn Central Corporation and have been informed that they are current through and including the installment due in May, 1980. These railroads, if delinquent, would in all likelihood be delinquent in all of their real estate tax bills.

In concluding, it appears to me that it would not be possible since there are no back real estate taxes owed to credit the \$9,400.00 to any such taxes and therefore, it is necessary, in order for the City to purchase this property, that the appropriation of these funds be considered and approved by the Council so that I can have a condemnation order entered and approved by the Court as per my agreement with these Defendants.

I would be happy to answer any questions which you or other members of the Council might have, if you so desire. Would you please see that this letter is forwarded to the appropriate Committee dealing with this matter? Thank you.

Richard I. Snouffer
RIS:gdf
cc: Mark Akers

Memorandum

To Board of Works Date June 20, 1980
From H.M. Woodring
Subject Ewing, Fairfield, Wells Street Bridge Project

COPIES TO:

RE: Acquisition of Penn-Central Property

The attached James Harding appraisal for the Penn-Central property lists \$3,000.00 for improvements, but the improvements were the property of Volunteers of America. Therefore, Penn-Central agreed to the price of \$9,400.00.

Because some of the items of the Penn-Central agreement to sell were unacceptable, Vince Heiny condemned the property. Now, Mr. Heiny expects to settle the suit hopefully in two weeks. He would like to have the check in hand at that time. Therefore, I respectfully request that a check for \$9,400.00 be issued from A.R. & S. account #50.

If you would be so kind as to get the check and voucher to me, I will deliver it to Mr. Heiny.

Woody

H.M. Woodring

Land Acquisition Agent

P.S. Make check payable to THE PENN CENTRAL CORPORATION and FORT WAYNE AND JACKSON RAILROAD COMPANY.

OK
Carl B. O'Meara
6-23-80

*From
L.R. + S
Acct*

RECEIVED
3 11 80
WORKS

☐ Works

[Signature]

[Signature]

[Signature]

CITY OF FORT WAYNE

DEPARTMENT OF PURCHASES
NUMBER ONE EAST MAIN STREET
ROOM 470

FORT WAYNE, INDIANA 46802

MAIL ALL CORRESPONDENCE, CLAIM VOUCHERS ETC. TO:

PURCHASE ORDER NUMBER

4- 04362

DATE

REF. NO.

REQ. NO.

THE ABOVE INFORMATION MUST APPEAR ON
ALL INVOICES, BILLS OF LADING, DELIVERY
TICKETS, PACKAGES AND CORRESPONDENCE.

INVOICE IN DUPLICATE.

THIS PURCHASE ORDER ISSUED BY:

DEPT. b/w 660

DATE
WANTED }

APPROPRIATION
AND FUND
NUMBER }

402-338-338-4307

DELIVER TO:-

DEPARTMENT
OR DIVISION

ADDRESS

CASH DISCOUNT TERMS % IF PAID WITHIN DAYS FROM DELIVERY AND
ACCEPTANCE OF GOODS OR PERFORMANCE OF SERVICES. (DEDUCTION FOR DISCOUNT SHOWN BELOW)

COMPLIANCE WITH
THE DELIVERY DATE
REQUESTED WILL A-
VOID "FOLLOW UP"
CORRESPONDENCE.

NOTE

↓
READ

INSTRUCTIONS ON
THE BACK OF THIS
ORDER

THE CONTRACTOR OR
VENDOR, BY ACCEPT-
ING THIS ORDER, A-
GREES TO THE GE-
NERAL CONDITIONS AND
TERMS OF AGREEMENT
ON THE BACK OF THIS
ORDER.

UNLESS OTHERWISE
INDICATED THE PRICES
SHOWN INCLUDE ALL
CHARGES FOR DELIV-
ERY, PACKING, ETC.,
NECESSARY TO COM-
PLETE DELIVERY TO
DESTINATION SPECI-
FIED.

UNLESS OTHERWISE
INDICATED THE PRICES
SHOWN DO NOT INCLUDE
TAXES OF ANY KIND.

EXEMPTION BLANKS
WILL BE FURNISHED
WHEN NECESSARY.

IND. SALES TAX
EXEMP. CERTIF. NO.
34508

IF THIS ORDER DOES
NOT AGREE WITH YOUR
QUOTATION KINDLY
RETURN IT WITH AN
EXPLANATION.

QUANTITY
ORDERED

UNIT

MATERIALS, SUPPLIES OR SERVICES

UNIT
PRICE

AMOUNT

TAX EXEMPT (UNLESS OTHERWISE INDICATED)

Acquisition of Penn-Central Property
Description etc. attached.

\$9,400.00

mla/bs

I HEREBY CERTIFY THAT THE COST OF THE ABOVE PURCHASE IS FULLY COVERED BY UNENCUMBERED BALANCES IN THE ABOVE FUNDS AND THAT THE EXPENDITURE THEREFOR HAS BEEN DULY AUTHORIZED AND APPROPRIATED.

City Controller

Per

I HEREBY CERTIFY UPON MY OWN PERSONAL KNOWLEDGE THAT THIS ORDER IS AUTHORIZED BY A PROPERLY EXECUTED AND APPROVED REQUISITION ON FILE IN THIS OFFICE.

Director of Purchases

Per

Parcel # 12 -- Penn-Central Trustees
1011 Wells Street

Legal Description:

Commencing at the northeast corner of Lot 29 Parandall's Sub to the City of Fort Wayne; thence South 95 feet to the Southeast corner of said Lot 29, the true point of beginning; thence southerly at a deflection right of 27° 16' 30" to the intersection of the approximate North R/W of Penn-Central Railroad; thence easterly along approximate North R/W of Penn-Central Railroad to the centerline North and South of Section 2, T 30 N, R 12 E; thence North along said centerline Section 2 to the South property line of said Block A to the point of beginning; an area of .43⁺ acres.

Parcel # 12, Continued

Zoning:	M-2
Permanent Right-of-Way:	\$9,400
Easements:	None
*Improvements:	\$3,000
Damages:	None
Just Compensation:	\$12,400

*(lease by and between Volunteers of America, Inc. and owner provides Lessor has the right to retain metal building, fuel pump and tank, fence and residential living units developed by Volunteers of America and encroaching upon subject property.)

CLAIM NO. _____ WARRANT NO. _____

APPROPRIATION NO. _____ AMOUNT _____

402-338-338-4307 \$ 9,400.00

TOTAL CLAIM \$ 9,400.00

PURCHASE ORDER NO. 04362

VENDOR NO. once only

INVOICE NO. _____

IN FAVOR OF

Penn Central Corp. & Ft. Wayne &
Jackson RailroadReturn Check and claim to B.Schmidt
B/W

ALLOWED: DATE: 19

b/w

I have examined the within claim and hereby
certify as follows:
That it is in proper form.
That it is duly authenticated as required by law.
That it is based upon (contract
(statutory authority,
correct
That it is apparently incorrect.

Clerk-Treasurer

19

Approved by State Board
of Accounts (1978)

CLAIM NO. _____ WARRANT NO. _____

APPROPRIATION NO. _____ AMOUNT _____

402-338-338-4307 \$ 9,400.00

TOTAL CLAIM \$ 9,400.00

PURCHASE ORDER NO. 04362

VENDOR NO. once only

INVOICE NO. _____

IN FAVOR OF

Penn Central Corp. & Ft. Wayne &
Jackson Railroad

Return Check and claim to B. Schmidt, B/W

ALLOWED: DATE: 19

DUPLICATE

b/w

4916
TITLE OF ORDINANCE SPECIAL ORDINANCE - CIVIL CITY PURCHASE ORDER NO. 4-04362 - PENN-CENTRAL CORP. & FT. WAYNE & JACKSON RAILROAD CO.

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS *2-8007-28*

SYNOPSIS OF ORDINANCE CIVIL CITY PURCHASE ORDER NO. 4-04362 TO PENN CENTRAL CORPORATION AND

FORT WAYNE AND JACKSON RAILROAD COMPANY IN AMOUNT OF \$9,400.00 FOR SETTLEMENT OF A LAWSUIT

INVOLVING THE CONDEMNATION OF PROPERTY OWNED BY PENN CENTRAL CORPORATION AND FORT WAYNE AND

JACKSON RAILROAD COMPANY IN ORDER TO MAKE WAY FOR THE CONSTRUCTION OF THE EWING, FAIRFIELD,

WELLS STREET BRIDGE PROJECT.

(PURCHASE ORDER ATTACHED)

EFFECT OF PASSAGE SETTLEMENT OF LAWSUIT ON THE CONDEMNATION OF THIS PROPERTY TO MAKE WAY FOR

THE EWING, FAIRFIELD, WELLS STREET BRIDGE PROJECT

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$9,400.00 FROM L R & S FUNDS

ACCT. #50

ASSIGNED TO COMMITTEE Public Works